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Permanent Forum on Indigenous Issues
Ninth session
New York, 19-30 April 2010

Draft report

Rapporteur: Ms. Paimanch **Hasteh**

Chapter I
Matters calling for action by the Economic and Social Council or brought to its attention

B. Matters brought to the attention of the Economic and Social Council

Special theme: "Indigenous peoples: development with culture and identity: articles 3 and 32 of the United Nations Declaration on the Rights of Indigenous Peoples"

1. Development paradigms of modernization and industrialization have often resulted in the destruction of the political, economic, social, cultural, education, health, spiritual and knowledge systems of indigenous peoples. There is a disconnect between dominant development paradigms and indigenous peoples due to the way indigenous peoples are often viewed. For example, indigenous peoples "development" is understood to be their assimilation into the so-called "civilized world". Also, indigenous peoples cultures and values are seen to be contradictory to the values of the market economy, such as the accumulation of profit, consumption and competition. Further, indigenous peoples and their cultures are seen as "obstacles" to progress because their lands and territories are rich in resources, and indigenous peoples are not willing to freely dispose of them.

2. The concepts of indigenous peoples in respect of development with culture and identity are characterized by a holistic approach that seeks to build on collective rights, security and greater control and self-governance of lands, territories and resources. The concepts build on tradition, with respect for ancestors, but are also forward-looking. They are based on a restorative philosophy underpinned by values of reciprocity, solidarity, equilibrium, sustainability and collectivity.

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3. The United Nations Declaration on the Rights of Indigenous Peoples provides a strong basis from which indigenous peoples can affirm their rights and define their aspirations in their relations with States, corporations, the United Nations system, intergovernmental organizations and other institutions around development with culture and identity. Article 3 is central to the Declaration since it refers to the right to self-determination. Article 32 is also a key provision, which captures the essence of culture with development and identity, affirms the principle of free, prior and informed consent and refers to the respective obligations of States. Those articles are the result of advocacy and concerns raised by indigenous peoples at the United Nations.

4. Treaties and treaty principles should be included in the consideration of the issue of indigenous peoples development with culture and identity. Therefore, articles 3 and 32 of the United Nations Declaration on the Rights of Indigenous Peoples should be read together with preambular paragraphs 7, 8, 14, 15, article 37 and the Declaration on the Right to Development.

5. The Permanent Forum welcomes the fact that its mandate and approach have created a positive and cooperative environment where Member States make high-level announcements on the promotion and protection of the rights of indigenous peoples and looks forward to the continuation of that practice.

6. The Permanent Forum recognizes that education is a critical underpinning of the special theme. In particular, the right to education in the mother tongue is fundamental to the maintenance and growth of culture and identity and cultural and linguistic diversity.

7. The Permanent Forum endorses the report and recommendations of the international expert group meeting on the theme "Indigenous peoples: development with culture and identity: articles 3 and 32 of the United Nations Declaration on the Rights of Indigenous Peoples" (see E/C.19/2010/14).

8. The Permanent Forum recommends that States, the United Nations system and other intergovernmental organizations provide political, institutional and, in accordance with article 42 of the United Nations Declaration on the Rights of Indigenous Peoples, financial support to the efforts of indigenous peoples so that they may consolidate their own development models and concepts and practices of living well (*sumak kawsay*, *suma qamana*, *laman laka*, *gawis ay biag*, etc.), which are underpinned by their indigenous cosmologies, philosophies, values, cultures and identities, as well as link efforts to implement the Declaration.

9. The Permanent Forum recommends that the efforts undertaken to develop the indicators of sustainability and well-being of indigenous peoples should be continued and supported by States, the United Nations system and intergovernmental bodies towards the establishment of headline indicators to measure and represent the goals and aspirations of indigenous peoples. These initiatives should lead to the creation of an indigenous peoples development index, which the Human Development Report Office of the United Nations Development Programme (UNDP) would adopt as a project to be included in future issues of the *Human Development Report*.

10. The Permanent Forum recognizes the importance of indigenous peoples knowledge systems as the basis of their development with culture and identity and therefore recommends that ongoing international processes, such as negotiations on

the international regime on access and benefit-sharing of the Convention on Biological Diversity, the Ad Hoc Working Group on Long-term Cooperative Action of the United Nations Framework Convention on Climate Change, and the Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore of the World Intellectual Property Organization, should recognize and integrate the crucial role and relevance of indigenous knowledge systems in accordance with the United Nations Declaration on the Rights of Indigenous Peoples.

11. The Permanent Forum calls on Member States, UNDP and other relevant organizations to effectively involve indigenous peoples in the review processes of the implementation of the Millennium Development Goals at the national and local levels and to ensure that disaggregated data on how the Goals are achieved in indigenous peoples territories be included.

12. The Permanent Forum also calls on the United Nations to ensure the active participation of indigenous peoples at the High-level Plenary Meeting of the sixty-fifth session of the General Assembly, to be held in September 2010.

13. The Permanent Forum welcomes the announcement by New Zealand to endorse the United Nations Declaration on the Rights of Indigenous Peoples and the announcement by the United States of America that it will review its position on the Declaration. It also welcomes the Canadian Speech from the Throne in 2010. The Forum recommends that the United States and Canada expedite their commitments made to endorse the Declaration.

14. Furthermore, the Permanent Forum urges those States that have abstained to reverse their positions and endorse the Declaration so as to achieve full consensus.

15. The Permanent Forum thanks Germany for announcing its contributions to the Trust Fund of the Permanent Forum and, given the steady annual increase of applications from indigenous peoples organizations, encourages other States to contribute to the Fund.

16. The Permanent Forum appreciates the efforts made by the Food and Agriculture Organization of the United Nations and its partners to inform, consult and involve indigenous peoples in United Nations activities relating to reducing emissions from deforestation and forest degradation and encourages them to further consolidate the partnership in accordance with the principle of free, prior and informed consent and the Declaration.

17. The Permanent Forum congratulates the International Fund for Agricultural Development (IFAD) for the approval of its policy on engagement with indigenous peoples, consistent with international standards, in particular with the United Nations Declaration on the Rights of Indigenous Peoples and the United Nations Development Group guidelines. In the implementation of the policy, the Forum encourages the Trust Fund to establish an indigenous peoples forum at IFAD, as an example to be followed by United Nations agencies and other intergovernmental organizations.

18. The Permanent Forum decides to appoint as special rapporteur, Pavel Sulyandziga, to conduct a study on indigenous peoples models of development in line with the theme "development with culture and identity", which is consistent with indigenous peoples cultural aspirations and world views.

19. The Permanent Forum welcomes the "International Conference on Biological and Cultural Diversity: Diversity for Development and Development for Diversity" (8-10 June 2010, Montreal) as a useful dialogue on the interface of diversities and development and notes its goal to consider a future collaborative programme of work between the Secretariat of the Conference on Biological Diversity, the United Nations Educational, Scientific and Cultural Organization (UNESCO), other relevant agencies, including the Forum and relevant indigenous organizations and non-governmental organizations, and decides to send the Chair of the Forum to report on the outcomes of the ninth session of the Permanent Forum regarding the theme.

20. The Permanent Forum calls upon UNESCO, the Secretariat of the Conference on Biological Diversity, UNDP, the United Nations Children's Fund (UNICEF), the United Nations Population Fund, the World Intellectual Property Organization and the United Nations Development Group to support indigenous peoples in their process of cultural heritage restoration and strengthening. This process should be guided by indigenous peoples in order to avoid the misuse and distortion of indigenous peoples culture, practices and knowledge and to respect their perspectives and aspirations.

21. The Permanent Forum recommends that UNDP include indigenous peoples in its programme of democratic governance in order to support and strengthen indigenous institutions and enable indigenous peoples to enjoy their right to political participation and fortify their capacities for political conflict prevention and resolution.

22. The Permanent Forum recommends that States consider the document entitled "The human development framework and indigenous peoples self-determined development or development with culture and identity" (E/C.19/2010/CRP.4) and in particular pay attention to the conclusions and recommendations provided therein.

23. The Permanent Forum recommends that the International Council on Mining and Metals provide a list of at least 10 projects that they recommend as good practices in the involvement of indigenous peoples in mining operations and invite members of the Forum to visit the project sites for the purpose of reporting back to the Forum at its tenth session.

24. The Permanent Forum requests that the secretariat of the Permanent Forum on indigenous issues publish a second volume of the *State of the World's Indigenous Peoples*, containing information from indigenous peoples organizations, United Nations agencies and States for a section on development with culture and identity.

25. The Permanent Forum recommends that UNESCO, the Convention on Biological Diversity, UNICEF and other relevant United Nations agencies convene an expert meeting, in conjunction with the Forum, comprising intercultural and educational experts and United Nations agencies to explore themes and concepts related to bilingual, intercultural and multilingual education in the context of teaching in mother tongue indigenous languages.

26. The Permanent Forum notes that in order to facilitate the expert meeting, there is a need for a country-specific situation analysis. The Forum invites UNESCO to conduct the analysis, given the agency's experience and expertise in the area. The Forum also invites UNESCO to transmit the analysis to the Forum. The analysis should identify the legislative and/or policy frameworks that States employ to

facilitate successful models of bilingual learning, multicultural and multilingual learning and mother tongue education and identify the barriers to implementation of those frameworks.

27. The Permanent Forum recommends that the United Nations system, the World Bank Group, the Inter-American Development Bank, the Asian Development Bank and other multilateral development banks formulate policies to ensure that indigenous education projects that are financed take into account the use, protection and intercultural preservation of indigenous languages through supporting bilingual, intercultural and multilingual education in indigenous languages. The International Monetary Fund should respect the rights of indigenous peoples recognized in international law.

28. On the basis of information received at the ninth session, the Permanent Forum expresses its deep concern about the changes in policy on bilingual education in the Northern Territory, Australia. The Forum urges the Government of Australia to work with its State and territory education systems to develop models of bilingual, intercultural and multilingual education that are consistent with the United Nations Declaration on the Rights of Indigenous Peoples and the United Nations Convention on the Rights of the Child.

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Chapter I
Matters calling for action by the Economic and Social Council or brought to its attention

B. Matters brought to the attention of the Economic and Social Council

Human rights: dialogue with the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people and other special rapporteurs

1. The Permanent Forum recommends that the United Nations Development Programme (UNDP) further engage indigenous peoples in the discussion regarding the concept of human development and in the elaboration of its Human Development Reports. The UNDP concept of human development and its work to promote such paradigm should be more strongly founded on human rights principles and therefore on the United Nations Declaration on the Rights of Indigenous Peoples. With regard to indigenous peoples, this means recognizing the principles of self-determination, independent development and other peoples' rights. Thus, national, regional and global UNDP Human Development Reports should reflect indigenous peoples' views of development from the perspective and with the participation of indigenous peoples themselves.

2. The Permanent Forum deems it urgently necessary for UNDP to develop a deeper understanding of indigenous peoples' world views. This requires, inter alia, that UNDP enhance its own capacity in the area of the human rights of indigenous peoples by having, at least, one full-time adviser on indigenous peoples' rights. This adviser should be an indigenous professional who has experience working in or with

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indigenous organizations. The Permanent Forum further recommends that UNDP establish internal mechanisms to monitor and ensure compliance with its own programmes and operations policies and procedures related to indigenous peoples' rights. The UNDP Liaison Committee on Indigenous Peoples' Issues, in collaboration with the Permanent Forum, should develop a system to receive concerns from indigenous peoples and ensure the application of the internal policies and procedures of UNDP.

3. The Permanent Forum reiterates its recommendation that United Nations agencies employ indigenous experts and requests that the International Labour Organization (ILO) provide information on indigenous experts employed within the United Nations system at the tenth session of the Permanent Forum.

4. The Permanent Forum encourages the Office of the United Nations High Commissioner for Human Rights (OHCHR), ILO and UNDP to strengthen their collaborative framework and partnership for the promotion and implementation of indigenous peoples' rights through joint country programmes aimed at building capacity and establishing mechanisms for consultation, participation and consent in accordance with ILO Convention C169 and the United Nations Declaration on the Rights of Indigenous Peoples.

5. The Permanent Forum recommends that UNDP, OHCHR and ILO facilitate dialogue and provide support to indigenous peoples in the areas of crisis prevention and democratic governance as they relate to extractive industries operating in indigenous territories in order to achieve more effective implementation and protection of indigenous peoples' rights.

6. The Permanent Forum recommends that States implement the principles contained in General Comment No. 21 (2009) of the Committee on Economic, Social and Cultural Rights on article 15, paragraph 1 (a), of the International Covenant on Economic, Social and Cultural Rights regarding the right of everyone to take part in cultural life. In its interpretation of the article, the Committee takes into account the United Nations Declaration on the Rights of Indigenous Peoples. It consequently distinguishes the right of indigenous peoples to take part in their own culture from the same right as it applies to minorities. This distinction is made in particular as a result of the extension of the concept of indigenous culture to material aspects such as territories and resources.

7. The Permanent Forum suggests that the Human Rights Committee also interpret the International Covenant on Civil and Political Rights taking into account the provisions of the United Nations Declaration on the Rights of Indigenous Peoples. In particular, the Committee should review its General Comment No. 12 (1984) on the right to self-determination (article 1 of the Covenant) and No. 23 (1994) on the rights of persons belonging to minorities (article 27 of the Covenant) taking into account article 3 and other relevant provisions of the Declaration. In addition, in accordance with the terms of General Comment No. 12, the Committee should request State parties to the Covenant to report on their compliance with their obligations regarding the right of all peoples, including indigenous peoples, to self-determination and related rights. The Committee should request that State parties prepare the relevant sections of their reports on the implementation of the Covenant in consultation and cooperation with indigenous peoples.

8. The Permanent Forum welcomes the efforts of the Committee on the Elimination of Racial Discrimination to construe the International Convention on the Elimination of All Forms of Racial Discrimination, regarding indigenous persons, taking into account the provisions of the United Nations Declaration on the Rights of Indigenous Peoples. The Permanent Forum recommends that the Committee request relevant State parties to the Convention to prepare the sections relating to indigenous peoples in their reports on the implementation of the Convention in consultation and cooperation with indigenous peoples.

9. The Permanent Forum notes that the 2010 annual report of the Committee of Experts on the Application of Conventions and Recommendations devotes increased attention to the implementation by States parties of conventions relevant to the rights of indigenous peoples. The Permanent Forum also notes that 6 of the 12 countries under individual observation on ILO Convention C169 in 2010 must submit a report in 2010, which indicates the serious concern of the Committee about compliance with the Convention by those countries. The Permanent Forum urges the relevant States to present their reports by the deadline established by ILO.

10. The Permanent Forum recommends that, during its June 2010 session, the Committee on the Application of Standards of the International Labour Conference follow up on the serious situations of violations of ILO Convention C169 mentioned in the relevant previous observations of the Committee of Experts on the Application of Conventions and Recommendations, as well as its own 2009 conclusions regarding the implementation of the Convention.

11. The Permanent Forum urges all States to commit to a process, with the participation of indigenous peoples, responding to the country reports of all United Nations Special Rapporteurs, including:

(a) Providing a written response to the rapporteur's report, submitted to the Human Rights Council, within six months of the report's issuance. The response should outline the State process for implementing the recommendations of the report;

(b) Developing and publicly promoting a strategy to implement the recommendations of the report within 12 months of its issuance;

(c) Providing annual updates of the rapporteur's report detailing the implementation of the strategy until such time as the rapporteur conducts a new visit to the State in question, or until that State undergoes a universal periodic review.

12. The Permanent Forum recommends that all States with indigenous peoples review their legislation, policies and programmes in accordance with the United Nations Declaration on the Rights of Indigenous Peoples and the Programme of Action for the Second International Decade of the World's Indigenous People.

13. The Permanent Forum supports the initiative of OHCHR to develop guidelines for the protection of peoples in voluntary isolation and initial contact in the Amazon Region and the Gran Chaco, which are currently under consultation with indigenous organizations and the States concerned. The Permanent Forum recommends that, in developing the guidelines, attention be directed to the United Nations Declaration on the Rights of Indigenous Peoples, particularly in terms of the right to self-determination. The organizations in closest contact with those indigenous peoples that remain in voluntary isolation or initial contact should be involved in the elaboration of these guidelines.

14. The Permanent Forum welcomes the increased cooperation among the Forum, the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people and the Expert Mechanism on the Rights of Indigenous Peoples on the basis of article 42 of the United Nations Declaration on the Rights of Indigenous Peoples. In accordance with that article, the Permanent Forum expresses its readiness to work closely with other United Nations mechanisms with mandates that are also relevant to indigenous peoples, such as the Human Rights Committee, the Committee on Economic, Social and Cultural Rights, the Committee on the Rights of the Child and the Committee on the Elimination of Racial Discrimination, and invites these bodies to participate in sessions of the Permanent Forum that are devoted to human rights.

15. The Permanent Forum urges the Human Rights Committee and the Committee on Economic, Social and Cultural Rights to require States parties to take into account, in their reports to each body, the first article of both the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, which must be understood pursuant to article 3 of the United Nations Declaration on the Rights of Indigenous Peoples, which sets out the right of indigenous peoples to self-determination.

16. The Permanent Forum welcomes the invitation from the Government of Colombia to organize a mission to that country.

17. The Permanent Forum welcomes the study of the Expert Mechanism on the Rights of Indigenous Peoples on the right to education and the Expert Mechanism's Advice No. 1. The Permanent Forum encourages States, indigenous peoples and others to disseminate these texts and incorporate them in national policies and practices.

18. The Permanent Forum recommends that OHCHR pursues its efforts to encourage increased use of the United Nations Declaration on the Rights of Indigenous Peoples by national human rights institutions.

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Chapter I
Matters calling for action by the Economic and Social Council or brought to its attention

B. Matters brought to the attention of the Economic and Social Council

Follow-up summary report and recommendations of the mission of the Permanent Forum to the Plurinational State of Bolivia

1. On 21 April 2010, the Permanent Forum on Indigenous Issues held an in-depth dialogue on the situation of the indigenous peoples in the Chaco region with representatives of the Government of the Plurinational State of Bolivia, leaders of the Guaraní People's Assembly (APG) and representatives of the United Nations country team in the Plurinational State of Bolivia. This dialogue represents a new working method based on the report on the Forum's mission to the Plurinational State of Bolivia (E/C.19/2010/6) and the response submitted by the Government of the Plurinational State of Bolivia (E/C.19/2010/12/Add.1). The Permanent Forum thanked the representatives of the Government, indigenous peoples and the United Nations for their participation in the dialogue.

2. The Permanent Forum asked a number of questions on various issues, including:

(a) Regulations for and conduct of the consultations regarding hydrocarbon exploration and extraction;

(b) Functioning of the Chaco Police Command with a view to protection of the Guaraní people and to progress in the freeing of individuals, families and communities;

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(c) Activities of the Human Rights Unit of the Ministry of Labour, Employment and Social Security in jurisdictions with a Guaraní population;

(d) Activities of the Inter-ministerial Council for the Eradication of Servitude, Forced Labour and Similar Practices;

(e) Progress in community-based agrarian reform with respect to the freeing of individuals subjected to servitude or forced labour and of captive communities on haciendas, and to the recovery of community lands usurped by haciendas;

(f) Plans for the freeing of Guaraní individuals and communities following the establishment of the new judicial institutions envisaged in the Constitution;

(g) Applicability of the Penal Code to those who keep individuals and communities in conditions of forced labour or captivity;

(h) Adoption of measures for the housing and health of the freed communities pending the recovery of their lands, and thereafter;

(i) Adoption of specific measures to combat forced labour and the sexual exploitation of children and adolescents, and concerning the education and health of Guaraní children and adolescents; and

(j) Provision of legal services to individuals, families and communities, not only with a view to their freedom from servitude but also after their liberation.

Comments on the dialogue

3. The representatives of the Government of the Plurinational State of Bolivia provided further information on the constitutional framework that hinders the State policy for elimination of the servitude of indigenous people and recovery of their land in accordance with the provisions of the community-based agrarian reform, reiterating the unwavering commitment of the current Government of the Plurinational State of Bolivia to that policy. The objective includes not only the definitive freeing of Guaraní individuals and communities, but also reconstitution of the territory of the Guaraní people. The Government representatives made it clear that the new institutions referred to in the questions were still at on early stage and that the new judicial institutions envisaged in the Constitution would be established in 2011, in accordance with the Constitution's implementation schedule. Meanwhile, several important agrarian land titling cases related to the freeing of Guaraní individuals and communities are stalled before the old judicial institutions.

4. The representatives of APG, for their part, maintained that the process of eliminating forced labour and the captivity of communities was stalled owing to a lack of Government will concerning the necessary land titling and recovery policies. They stressed that that elimination would not be complete until there was a true reconstitution of the territory of the Guaraní nation. They said that the ineluctable principle governing the entire process must be self-determination and that the essential mechanism must be the prior, free and informed consent of the Guaraní people itself.

5. For its part, the representatives of the country team said that the Permanent Forum's mission report had had a positive impact. They described the initiatives and activities of the United Nations agencies and programmes aimed at implementation of the respective recommendations and explained how the country team planned to

facilitate coordination among the various parties involved in situations of servitude in the Chaco region.

6. Lastly, the representatives of the Government responded, stressing that, thanks to the new Constitution, prospects were good but that, owing to the situation that had been inherited, conditions were poor.

Recommendations

7. The Permanent Forum recommends that the Plurinational State of Bolivia should speed up implementation of the constitutional provisions regarding the freeing of individuals, families and communities in light of the fact that forced labour and servitude are serious human rights violations that must be addressed with great urgency.

8. The Permanent Forum recommends that the Plurinational State of Bolivia should consider implementing the resolutions of the National Agrarian Reform Institute regarding the revocation of land titles on grounds of servitude in all matters affecting not only the freedom of individuals, but also the recovery of land for communities, thereby preventing legal proceedings from stalling a reform process that defends, promotes and protects human rights.

9. The Permanent Forum recommends that the Plurinational State of Bolivia should continue to link its policies for the freeing of individuals and the recovery of lands in the Chaco region with a view to the territorial reconstitution of the Guaraní people, which both the Government and APG consider the ultimate objective.

10. The Permanent Forum recommends that the Plurinational State of Bolivia should adopt more rigorous special policies in the areas of housing, health and education in order to benefit the freed communities, paying particular attention to those who have been subjected to servitude, and especially children and adolescents.

11. The Permanent Forum welcomes the inclusion of the Office of the Deputy Minister for Decolonization, together with other competent institutions, in the Government's implementation of measures designed to eliminate servitude and contemporary forms of slavery. Its cooperation will ensure a broader and more comprehensive and effective strategy.

12. The Permanent Forum calls on the Office of the Attorney General and the district prosecutors' offices in the Departments of Chuquisaca, Santa Cruz and Tarija to conduct criminal investigations into the events described by the Plurinational State of Bolivia in its report to this session of the Forum and in the subsequent report of the Inter-American Commission on Human Rights.

13. The Permanent Forum encourages APG to continue to give priority to its endeavours to eliminate the servitude and contemporary forms of slavery to which families and communities in Santa Cruz, especially in Alto Parapetí, and in Chuquisaca, are subjected. The Permanent Forum encourages APG, as the organization that represents the Guaraní people in the Plurinational State of Bolivia, to continue to give priority to combating these extremely serious human rights violations as part of its broader programme of reconstitution of the Guaraní people.

14. The Permanent Forum encourages APG to continue to defend the principles of self-determination and free, prior and informed consent in accordance with the United Nations Declaration on the Rights of Indigenous Peoples, which the

Plurinational State of Bolivia has incorporated into its domestic law and applied through its Constitution.

15. The Permanent Forum thanks the country team for endorsing the recommendations contained in the report on the mission to the Plurinational State of Bolivia and for taking responsibility for follow-up to those recommendations. With regard to attempts at consensus-building among the parties involved in situations of servitude and practices of forced labour, the Permanent Forum recalls that human rights are inalienable and that they include the rights of indigenous peoples acknowledged in the United Nations Declaration.

16. The Permanent Forum urges the Office of the United Nations High Commissioner for Human Rights (OHCHR) in the Plurinational State of Bolivia to continue and strengthen its monitoring of the human rights of the Guaraní people to address as a matter of urgency the situation of the families and communities that are subjected to forced labour and other forms of servitude and to report regularly and publicly on developments in that situation. In the area of technical assistance, the Permanent Forum urges the Office of OHCHR in the Plurinational State of Bolivia to strengthen the human rights capacities of the Guaraní authorities in Alto Parapetí and other districts where there are serious human rights violations.

17. The Permanent Forum undertakes to continue to monitor implementation of the recommendations contained in its report with the cooperation of all parties to this dialogue: the Government, the representatives of indigenous peoples and the United Nations country team.

Follow-up summary report and recommendations of the Permanent Forum mission to Paraguay

18. On 21 April 2010, the Permanent Forum on Indigenous Issues held an in-depth dialogue on the situation of indigenous peoples in the Chaco region with representatives of the Government of Paraguay, officials of the Coordinating Body for the Self-Determination of Indigenous Peoples of Paraguay (CAPI) and representatives of the United Nations country team in Paraguay. This dialogue represents a new working method based on the mission report of the Permanent Forum, which visited Paraguay in April 2009 (E/C.19/2010/5), and the Government of Paraguay's responses in its report to the ninth session of the Forum (E/C.19/2010/12/Add.2). The Permanent Forum thanked the representatives of the Government, indigenous peoples and the United Nations for their participation in the dialogue.

19. The Permanent Forum asked a number of questions on various issues, including:

(a) Respect for the principle of self-determination during the ongoing reform of the Paraguayan Institute for Indigenous Affairs (INDI) and other agencies with competence on indigenous issues, such as the Ethnic Rights Department of the Public Prosecutor's Office;

(b) Potential recovery of the lands of indigenous communities that were usurped by the current owners, who acquired them without the need for a purchase contract or through forced expropriation;

(c) Potential use of the rural land registry for purposes of land titling and recovery of community land without placing a prohibitive burden on the public coffers;

(d) Activities of the Inter-ministerial Council for the Eradication of Servitude, Forced Labour and Similar Practices;

(e) The work of the Inter-Agency Commission for the Enforcement of Judgments of the Inter-American Court of Human Rights and the Recommendations of the Inter-American Commission on Human Rights;

(f) Coordination between the national programme for indigenous peoples (PRONAPI) and INDI and the work of PRONAPI;

(g) The work of the Commission on Labour Rights and the Prevention of Forced Labour under its plan of action to combat forced labour;

(h) Participation of indigenous peoples in INDI and in the new bodies mentioned above;

(i) Fulfilment by the Public Prosecutor's Office of its constitutional mandate to defend the rights of indigenous peoples, especially in connection with the specific provisions of the Code of Criminal Procedure on "punishable acts relating to indigenous peoples";

(j) Concrete action by the political, administrative and judicial authorities of the Chaco region aimed at combating forced labour and ensuring the recovery of community land;

(k) Specific measures taken in order to protect indigenous children in the indigenous communities of the Chaco region under the current conditions; and

(l) Potential development of coordinated international policies, particularly with the Plurinational State of Bolivia, with a view to the freeing of individuals and the recovery of indigenous peoples' land in the joint Chaco region.

Comments on the dialogue

20. The representative of the Government of Paraguay provided further information on the constitutional guarantees of private property that are hindering the development of land titling policies with a view to freeing individuals and rebuilding communities. In any event, he believed that the impending creation of a rural land registry could provide an opportunity for such titling. He spoke about the work of the new institutions, which is still at an early stage, and particularly that of the Commission responsible for implementing, at last, the resolutions of the Inter-American Court of Human Rights concerning the indigenous communities of the Chaco region. He stressed the failure of Congress to cooperate in the development of an indigenous land recovery policy and the problems that this posed for the Government.

21. The representative of CAPI, for his part, acknowledged the effort that the Government was making to promote policies for the recognition and compensation of the indigenous peoples of Paraguay. He stressed the persistence of servitude, forced labour, violation of the right to organize, dispossession of land and property, lack of access to health services and, in many communities, genuine humanitarian crises. The representative of CAPI recalled that in addition to the Guarani, there

were other indigenous peoples in the Chaco region, such as the Ayoreo, some of whom were living in voluntary isolation. He said that the Government of Paraguay and CAPI were cooperating in the development of new policies. CAPI urged the Government to seek ways to compel the legislative and judicial branches to implement such policies. CAPI thanked the United Nations agencies with offices in Paraguay, and particularly the United Nations Development Programme (UNDP), for their assistance and support.

22. The representatives of the country team praised the Permanent Forum's mission and subsequent report and expressed their appreciation for the reception of the report by the Government and the indigenous peoples' organizations. They described the initiatives and activities of the United Nations agencies and programmes aimed at implementation of the respective recommendations and the problems that had been encountered.

23. Lastly, the representative of the Government offered further detailed and valuable information on the political commitment of the current executive branch and on the various kinds of problems that it was addressing resolutely.

Recommendations

24. The Permanent Forum recommends that the Government of Paraguay should remain firm in its commitment to cooperating with indigenous peoples' organizations in order to find emergency solutions to the extremely serious situation of the indigenous communities that have been wholly dispossessed of their land, and to implement policies to ensure the reconstitution of their territory.

25. The Permanent Forum urges the Republic of Paraguay to take urgent action to implement the resolutions of the Inter-American Court of Human Rights concerning communities that are experiencing major humanitarian crises.

26. The Permanent Forum recommends that Paraguay should speed up the reform of INDI and of other institutions with competence in indigenous issues so that the proper participation of indigenous peoples will strengthen their democratic representation before the legislative and judicial powers, which are still reluctant to act.

27. The Permanent Forum recommends that the Government of Paraguay should make resolute progress towards the development of a land registry that will facilitate land titling, and thus the recovery of land by indigenous communities and the territorial reconstitution of their respective peoples.

28. The Permanent Forum welcomes the announcement of a flagship plan for the acquisition of additional indigenous land in order to overcome the financial crisis faced by INDI and the failure of Congress to cooperate by allocating the necessary funds.

29. The Permanent Forum recommends that the Government of Paraguay should give priority, in its emergency plans, to the protection of vulnerable indigenous children from practices of forced labour and other forms of exploitation.

30. The Permanent Forum encourages the Government of Paraguay to continue to accept assistance from United Nations agencies and programmes and national cooperation agencies in order to develop policies aimed at the elimination of forced

labour and other forms of servitude, especially in matters relating to the most urgent challenges: food, health, housing and education.

31. The Permanent Forum notes that forced labour and all forms of servitude constitute serious human rights violations that it is urgent to address; it therefore urges the Government of Paraguay to combat these practices as a matter of urgency.

32. The Permanent Forum recommends that those responsible for practices of forced labour or other forms of servitude should be prosecuted under Paraguayan law.

33. The Permanent Forum recommends that Paraguay should propose the negotiation of international agreements for protection of the rights of indigenous peoples with the other States of the Chaco region — the Plurinational State of Bolivia, Argentina and Brazil — and particularly with the Plurinational State of Bolivia with a view to the latter's development of additional policies aimed at the freeing of individuals, the recovery of land and the rebuilding of peoples.

34. The Permanent Forum recommends that any future agreements with the Plurinational State of Bolivia should provide, in particular, for means of protecting the territory of the Ayoreo people living in voluntary isolation.

35. The Permanent Forum encourages CAPI and other indigenous peoples' organizations to continue to defend the principle of indigenous peoples' self-determination that they have followed in asserting their own identity, and thus to continue their efforts to reach agreement with the Government on reforms consistent with the Declaration on the Rights of Indigenous Peoples.

36. The Permanent Forum thanks the country team for endorsing the recommendations contained in the report on the mission to Paraguay and for taking responsibility for follow-up to and implementation of those recommendations in cooperation with indigenous peoples' organizations.

37. The Permanent Forum undertakes to continue to monitor implementation of the recommendations contained in its report with the cooperation of all parties to this dialogue: the Government, the representatives of indigenous peoples and the United Nations country team.